

Panaji, 9th January, 2003 (Pausa 19, 1924)

SERIES I No. 41

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note: There is one Extraordinary issue to the Official Gazette Series I No. 40 dated 2-1-2003, namely, Extraordinary dated 3-1-2003 from pages 927 to 932 regarding Notifications/Regulations from Department of Panchayat Raj and Community Development (Directorate of Panchayats).

GOVERNMENT OF GOA

Department of Social Welfare

Notification

88-22-89/SWD/Vol.II/PART/2772

In exercise of the powers conferred by section 109 of the WAKF Act, 1995 (Central Act 43 of 1995) the Government of Goa hereby makes the following rules, namely:—

RULES

CHAPTER - I

1. *Short title and commencement.*— (1) These rules may be called the Goa Wakf Rules, 2002.

(2) They shall come into force at once.

2. *Definitions.*— In these rules, unless the context otherwise requires,—

(a) 'Act' means the Wakf Act, 1995. (Central Act 43 of 1995);

(b) 'Board' means the Goa Wakfs Board established by the Government under sub-section (1) of section 13 of the Act;

(c) 'Candidate' means a person qualified to seek election, who has been duly nominated in accordance with these rules;

(d) 'Chairperson' means the Chairperson of the Board elected under sub-section (8) of section 14 of the Act;

(e) 'Chief Executive Officer' means the Chief Executive Officer of the Board appointed by the Government under sub-section (1) of section 23 of the Act;

(f) 'clear days' means the number of days to be counted excluding the first and the last day;

(g) 'continuing candidate' means a candidate not elected or not excluded from the poll at any given time;

(h) 'Elector' means a person who is qualified to vote at the election;

(i) 'exhausted paper' means a ballot paper on which no further preference is recorded for a continuing candidate provided that a paper shall also be deemed to be exhausted in any case in which,—

(i) the names of two or more candidates whether continuing or not are marked with the same figure and are next in earlier preference;

(ii) the names of the candidates next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the ballot paper or by two or more figures;

(j) 'First and second preference' means the figure 1 set opposite to the name of any candidate, second preference means the figure 2 set opposite to the name of any candidate;

(k) 'form' means a form appointed to these rules;

(l) 'Government' means the Government of Goa;

(m) "Original Votes" in regard to any candidate means the votes derived from the

ballot papers on which a first preference is recorded for such candidates;

(n) "Surplus" means the number by which the votes of any candidate, original and transferred exceed the quota as defined in rule 42;

(o) 'Survey Commissioner' means the Survey Commissioner of Wakfs appointed by the Government under sub-section (1) of section 4 of the Act and includes any additional or Assistant Survey Commissioners of Wakfs;

(p) 'section' means section of the Act;

(q) 'State' means the State of Goa;

(r) 'transferred vote' in regard to any candidate means a vote credited to such candidate which is derived from a ballot paper on which a second or subsequent preference is recorded for such candidate;

(s) 'Unexhausted paper' means a ballot paper on which a further preference is recorded for a continuing candidate;

(t) 'Tribunal' in relation to any area, means the Tribunal constituted under sub-section (1) of section 83 of the Act having jurisdiction in relation to that area;

(u) Words and expressions used but not defined in these rules, but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

CHAPTER - II

Survey of Wakfs and publication of list of Wakfs—

3. Appointment of Survey Commissioner and their functions:—

(1) The Government may, under sub-section (1) of section 4, appoint,—

(a) an officer of the State Government not below the rank of the Secretary to Government as Survey Commissioner of WAKF;

(b) an Officer of the State Government not below the rank of Secretary to Government working in District level as Additional Survey Commissioner of WAKFs; and

(c) an Officer of the State Government not below the rank of Deputy Collector as Assistant Survey Commissioner;

(1) For the State for the purpose of making a survey of Wakfs existing in the State at the date of commencement of the Act.

(2) All Additional and Assistant Survey Commissioner of Wakfs appointed under the Act shall perform their functions under the general supervision and control of the Survey Commissioner of Wakfs.

(3) The Survey Commissioner shall within six months from the date of his appointment or within such extended period, after making such inquiry as he may consider necessary, submit his report, in respect of Wakfs existing at the commencement of the Act in the State or any part thereof to the Government containing the following particulars, namely:—

(1) The number of Wakfs in the State showing the Shia Wakfs and Sunni Wakfs separately;

(2) The name, nature and objects of each Wakf;

(3) Location of Wakf institution;

(a) district;

(b) taluka;

(c) village;

(d) municipality/village panchayat;

(e) local name of the place where situated;

(4) Date or year of creation of Wakf;

(5) Number, year and date of Wakf deed;

(6) Nature and objects of Wakf;

(7) How the Wakf is administered at present whether under a scheme settled by law or by registered document or established custom or usage;

(8) Details of immovable properties of Wakfs and place where situated:—

(a) district;

(b) taluka;

- (c) village/amsom;
 - (d) kara/desom;
 - (e) municipality/village panchayat;
 - (f) survey number;
 - (g) sub-division number;
 - (h) extent;
 - (i) value of the property;
 - (j) gross annual income from immovable properties;
 - (k) the amount of land revenue cesses, rates and taxes payable;
- (9) Description and value of movable properties including investments;
- (10) Gross annual income from movable;
- (11) Other receipts, if any;
- (12) Encumbrances, if any on the movable or immovable properties;
- (13) The amount of land revenue cesses, rates and taxes payable in respect of each Wakf;
- (14) The expenses incurred in the realisation of the income;
- (15) The pay or other remuneration of the Mutawalli of each Wakf;
- (16) Expenses for the performance of the functions specified in the Wakf deed or established by custom;
- (17) Procedure for election of Mutawalli or Rules of succession to the post of Mutawalli;
- (18) Name and address of the present Mutawalli;
- (19) The total cost of making the survey;

(4) The Survey Commissioner shall also furnish a separate list of Mutawalli of the Wakfs having an annual income of rupees ten thousand and above;

4. Procedure to be followed by the Survey Commissioner:—

(1) The Survey Commissioner shall have the power to regulate his procedure including the fixing of places and times of his sittings and

deciding whether to sit in public or in private and also monitor the works of Additional and Assistant Survey Commissioners.

(2) Where the Survey Commissioner in deciding any question under sub-section (3) of section 4 of the Act considers it necessary or proper to make an inquiry and the Survey Commissioner is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, he cannot come to a decision in the matter which is being inquired into, the Survey Commissioner shall have, for the purposes of such inquiry, the powers of a civil court while trying a suit under the Code of Civil procedure, 1908 (Central Act 5 of 1905) in respect of matters mentioned in sub-section (4) of section 4 of the Act.

5. Publication list of Wakfs.— (1) On receipt of a report under sub-section (3) of section 4 from the Survey Commissioner the Government shall forward a copy of the same to the Board.

(2) The Board shall examine the report forwarded to it, and publish in the Official Gazette a list of Sunni Wakf or Shia Wakfs in the State, whether in existence at the commencement of the Act or coming into existence thereafter, to which the report relates.

The report to be published by the Board under sub-section (2) of section 5 of the Act shall contain amongst others, the following particulars—

- (i) name of Wakfs (whether Shia or Sunni);
- (ii) the nature and object of each wakf;
- (iii) the gross income of the property comprised in each Wakf;
- (iv) the amount of land revenue cesses, rates and taxes payable of each Wakf;
- (v) the expenses incurred in the realisation of the income of each Wakf;
- (vi) the expenses incurred in giving the pay or other remuneration of the Mutawalli of each Wakf;
- (vii) the Mutawallis of the Wakf having an annual income of rupees ten thousand and above;
- (viii) any other particulars as Board may determine to publish;

(3) The Board shall prepare and maintain a list of Wakfs which has come to its notice in the course of collecting information under sub-section (1) of section 40 of the Act or which it has caused to be registered under section 41 or which have been registered at its office under section 36, before 15 days of every year and published the same alongwith the list of Wakfs published under sub-section (2) of section 5 of the Act.

6. *Disputes regarding Wakfs.*— If any question arises whether a particular property specified as Wakf property in the list of Wakfs published or subsequently included is Wakf property or not or whether a wakf specified in such list is a Shia Wakf or Sunni Wakf, the Board or the Mutawalli of the Wakf or any person interested therein may institute a suit in a Tribunal for the decision of the question and the decision of the Tribunal in respect of such matter shall be final.

7. *Expenses in connection with Survey.*— Funds to meet all expenses in connection with the Survey including the publication of the list in the Official Gazette shall be provided by the Government in the first instance and such expenses shall be recovered by the Government from all the Mutawalli of the Wakfs in such proportion as assessed by the Survey Commissioner in the manner laid down under section 8 of the Act.

CHAPTER III

Establishment of the Goa Board of Wakfs and Election and Nomination of Members

8. *Composition of the Goa Wakf Board.*— The Goa Wakf Board shall consist of the following members, namely:—

(a) two members to be elected in accordance with system of proportional representation by names of single transferable vote from each of the electoral colleges consisting of:—

(i) Muslim Members of Parliament from the State;

(ii) Muslim Members of the State Legislature;

(iii) Muslim Members of the Bar Council of the State; and

(iv) Mutawallis of the Wakfs having an annual income of rupees Ten Thousand and above.

(b) two members nominated by the Government representing eminent Muslim Organisations;

(c) two members nominated by the Government each from recognised scholars in Islamic theology;

(d) an officer of the State Government not below the rank of Deputy Secretary to the Government nominated by the Government;

9. *Appointment of Returning Officer.*— (1) The Government shall appoint an officer not below the rank of a District Collector as the Returning Officer for the conduct of election of members referred to in clause (b) of sub-section (1) of section 14 of the Act.

(2) It shall be the duty of the Returning Officer to do all such acts and things as may be necessary for effectively conducting the election in accordance with the provision of the Act and these rules.

10. *Powers and functions of the Returning Officer.*— (1) Subject to the other provisions of these rules, the Returning Officer shall be responsible for the conduct of elections of the members of the Board and shall have powers,—

(a) to fix the date, place and time of all elections;

(b) to prescribe the form of notice, nomination, letter of intimation, declaration paper, ballot paper, ballot paper cover and the envelope for any election, the form of any other record to be prepared or maintained in relation to an election and the instructions to be contained, in the notification;

(c) to decide in cases of doubt, the validity or invalidity of each ballot paper or of each vote recorded thereon;

(d) to declare the result of each election; and

(c) to fix:—

(i) the date of notification of;

(ii) the last date for receipt of nominations;

(iii) the date of scrutiny of nominations and publication of list of candidates validly nominated;

- (iv) the last date and hour for withdrawal or candidature;
- (v) the date of publication of the final list;
- (vi) the date of issue of ballot paper;
- (vii) the date and hour for the poll;
- (viii) the date and hour for scrutiny and counting of votes.

(2) It shall be competent for the Returning Officer when any emergency arises to postpone the date or dates fixed in the programme for transaction of business connected with the elections at any intermediate stage after recording his reasons for so doing.

(3) The Returning Officer may, for sufficient cause with the consent of the Government, postpone the date or dates fixed in the programme for publication of final list of valid nominations, for despatch of ballot papers, for poll or for scrutiny and counting of votes, when at any intermediate stage of an election any objections to any question is raised which necessitates the postponement of the programme.

(4) The Returning Officer shall have the powers to direct the holding of elections in anticipation of vacancies that are about to occur by afflux of time.

11. *Maintenance of Electoral Rolls.*— The Returning Officer shall maintain electoral rolls for each electoral college entitled to elect members at any election of members of the Board showing the names and address of all persons.

12. *Publication of Electoral Roll.*— The electoral rolls shall be published and displayed in the Board office not less than thirty clear days before the date of notification of the election. The Returning Officer shall notify the date of elections not less than thirty clear days before the date of elections in newspapers approved by the Government for purpose.

13. *Eligibility to take part in Election.*— The names of persons who are on the electoral roll 30 days before the date of publication of the roll alone shall be included to participate in the election:

Provided that any person who ceases to be a member of an electoral body before the date of issue of the ballot paper from the Returning Officer shall not be entitled to participate in the election.

14. *Corrections, Alterations, etc. in Electoral Roll.*— It shall be competent for the Returning Officer to make any addition, correction, alteration or deletion in any electoral roll provided that, the fact necessitating such correction or alternation or deletion is brought to the notice within 15 days after the publication of the Electoral roll and that he is satisfied that such correction or alternation or deletion is necessary.

15. *Prices of copies of Electoral Roll.*— Copies of the electoral roll or part thereof shall be made available to the electors on request and on payment of the price to be fixed for the roll or part thereof by the Returning Officer.

16. *Electoral Roll of Electoral College of Parliament.*— The electoral roll of the electoral college of Parliament shall contain the names and address of the Muslim Members of the Rajya Sabha and Lok Sabha from the State:

Provided that, if there are no Muslim Members in Parliament from the State, the Electoral Roll shall contain the names and address of ex-Muslim Members of Parliament.

17. *Electoral Roll of the Electoral College of State Legislature.*— The electoral roll of the electoral college of State Legislature shall contain the names and address of the Muslim Members of the Legislative Assembly of the State:

Provided, if there are no Muslim Members in the Legislative Assembly, the electoral roll shall contain the name and address of the Ex-Muslim Members of the Legislative Assembly.

18. *Electoral Roll of the Electoral College of the Bar Council of State.*— The Electoral roll of the electoral college of the Bar Council of the State shall contain the names and address of the Muslim Members of the Bar Council of the State:

Provided that, if there are no Muslim Members in the Bar Council of the State the electoral roll shall contain the names and address of the Ex-Members of the Bar Council of the State.

19. *Electoral Roll of the Electoral College of the Mutawallis.*— (1) The electoral roll of the electoral college of the Mutawallis shall contain the names and address of the Mutawallis of the Wakfs having an annual income of rupees ten thousand and above.

(2) Where there are Shia Wakfs but no separate Shia Wakfs Boards exist, and no member from other categories listed in sub-section (1) of section

14 elected or nominated to the Board is a Shia, then a seat shall be reserved for Mutawallis of Shia Wakfs having an annual income of rupees ten thousand and above. In such cases separate electoral rolls of the Mutawallis of sunni and shia wakfs having an annual of rupees ten thousand and above shall be prepared and maintained by the Returning Officer.

20. Notification of Election.— When any vacancy occurs or is about to occur by efflux of time among the members of the Board which has to be filled up by election, or if an election, has to be conducted for the constitution or reconstitution of the Board according to the provisions of the Act and these rules, the Returning Officer shall, under the direction of the Government, notify the fact in the Official Gazette and also simultaneously cause the notification to be published in news papers approved by the Government for the purpose. The notification shall contain the programme of the election giving the following particulars, namely:—

- (i) Date of Notification;
- (ii) Filling of nominations;
- (iii) Last date for receipt of nominations;
- (iv) Date of scrutiny of nominations and publication of list of candidate validly nominated;
- (v) Last date and hour for withdrawal of candidature;
- (vi) Date of publication of the final list of candidates;
- (vii) Date of issue of ballot paper;
- (viii) Date and hour fixed for the poll;
- (ix) Date and hour of scrutiny and counting of votes.

21. Presentation of Nomination paper and Requirements for a valid nomination.— (1) on or before the date appointed by notification issued under above rule, (20) each candidate shall either in person or by his proposer deliver to the Returning Officer at the place specified in this behalf in the notification issued under above rule (20) a nomination paper in the specified form, which shall, on application, be supplied free of cost by the Returning Officer to any elector whose name in the electoral roll.

(2) Every nomination paper shall be proposed by an elector whose name is in the electoral roll and seconded by another elector or the concerned constituency with his signature.

22. Scrutiny of nominations.— All nomination papers received through the post or deposited in

the box provided for the purpose in the office of the Returning Officer within the specified hour or the specified date shall be scrutinised by the Returning Officer. The candidate or one of his representative who shall be appointed in writing by him and approved by the Returning Officer may be present at the time of scrutiny of nominations.

23. Decisions of the Returning Officer on Objections.— (1) The Returning Officer shall then examine the nomination papers and decide all objections which may be made at the time to any nomination and may either on such objection, or on his own motion after such summary enquiry, if any, as he thinks necessary, reject any nomination, on any of the following grounds, namely:—

(i) that the candidate is ineligible for election for the grounds covered under section 16 of the Act;

(ii) that the seconder is a person whose name is not registered in the electoral roll.

(2) The decision of the Returning Officer, shall in each case be endorsed by him on the nomination paper in respect of which such decision is given.

24. List of candidates validly Nominated.— A list of candidates whose nominations have been declared valid shall be published with their names and addresses by affixing the list on the notice board in the office of the Returning Officer on the same day. The names of the candidates in the list shall be in the serial order of their electoral roll numbers.

25. Withdrawal of candidate.— Any candidate may withdraw his candidature by notice in writing signed by him and either sent by registered post or delivered in person or by messenger to the Returning Officer so as to be received by him not later than the hour on the day fixed for withdrawal, which shall not be less than 5 clear days after the last date for the receipt of nomination and the withdrawal once made shall be final. A candidate who has withdrawn his nomination shall not be eligible for renominations as a candidate for the same election to the Board.

26. Final List of Candidates.— The Returning Officer shall, after expiry of the period fixed for withdrawal of candidature publish in the Board Office a final list of candidates validly nominated. The final list of candidates validly nominated

shall show the name, roll number and the designation, if any, and address of the candidates.

27. Declaration of election of validly nominated candidate.— (1) If the number of candidates from the final list of candidates does not exceed the number of vacancies to be filled by election, such candidates shall be declared to have been duly elected.

(2) If the number of candidates from the final list of candidates is less than the number of vacancies to be filled by election, such candidates shall be declared to have been duly elected and the electorate shall be called upon to elect a person or persons, as the case may be, to fill the remaining vacancy or vacancies.

(3) If the number of candidates from the final list of candidates exceeds the number of vacancies to be filled by election, than the Returning Officer shall proceed with the election in the manner specified hereinafter.

28. Despatch of ballot paper.— The Returning Officer shall forward to each elector, through the post, a serially numbered declaration paper, a ballot paper containing the names and addresses of all candidates in the same order as in the final list of candidates validly nominated and bearing the initials of the Returning Officer and the date of posting, a ballot paper cover, and envelope addressed to the Returning Officer and bearing a number corresponding to the serial number of the declaration paper, together with the letter of intimation, stating the number of vacancies to be filled by election the date and hour fixed for the poll and the date and hour fixed for the scrutiny and counting of votes, and such guidance to the votes for exercising their franchise as may be deemed necessary. The papers shall be forwarded to the address of each elector as given in the electoral roll of the constituency or, if any elector has since the publication of the roll changed his address, to the address changed, provided the fact has been intimated to the Returning Officer not less than 14 clear days before the date of posting of the ballot paper. The date fixed for the poll shall not be less than 14 clear days after the date of posting of the ballot paper.

29. Non receipt or loss of ballot paper by an elector.— When any elector has not received or has lost the ballot paper sent to him, he may make and transmit a declaration to that effect signed by himself and request the Returning

Officer to send him duplicate papers in place of the ones not received or lost, and the Returning Officer, if satisfied as to the genuineness of the declaration, issue duplicate papers through the post. In every case where duplicate papers are issued, the fact shall be noted against the number of the elector in the electoral roll for use at the time of scrutiny and counting of votes and the ward "Duplicate" in block capitals shall be written or stamped in ink on the declaration paper and the envelope addressed to the Returning Officer.

30. Defective ballot papers, etc.— If the elector receives any ballot paper, ballot paper cover, or declaration form which is liable to be rejected for want of serial number, initial or for any reason arising from a clerical error or omission in the office of the Returning Officer the elector shall within two days of the same but before the time fixed for the commencement of the election bring the matter to the notice of the Returning Officer who shall, if satisfied, issue by post fresh ballot paper or ballot paper cover or declaration paper, as the case may be, in its place. The fact that a fresh ballot paper, ballot paper cover or declaration has been issued shall be noted against the number of the elector on the electoral roll for use at the time of scrutiny and counting.

31. Procedure when election papers are spoilt.— When an elector has inadvertently spoilt the ballot paper or any other connected papers sent to him, he shall make a declaration to that effect signed by himself and transmit the same to the Returning Officer, together with the spoilt papers and the Returning Officer, on receipt of the spoilt papers, shall cancel them and issue through the post, fresh ones.

32. Voting.— The elector, in case he desires to vote at the election, shall after filling up the declaration paper and the ballot paper in accordance with the directions given in the letter of intimation and/or on the reverse side of the ballot papers, enclose the ballot paper in the cover marked 'Ballot paper cover' and stick it and enclose the same and the declaration paper in the envelope addressed to the Returning Officer and send the envelope by registered post to the Returning Officer so as to reach him before the hour and date fixed for the poll, or deposit the envelope or cause it to be deposited in the box provided for the purpose in the office of the Returning Officer during office hours on any working day, before the last date and hour fixed for the poll.

33. *Recording of notes of illiterate or disabled elector, etc.*— (1) If an elector is unable through illiteracy, blindness or by reason of any physical disability to record his voice in the manner specified it shall be competent for him to record his vote by the hand of any of the persons specified in sub-rule (2) and such persons shall on the declaration paper attest the incapacity and the fact of his having been requested by the elector to record his vote on his behalf and of its having been so marked by him during the election.

(2) The following persons are empowered to record the vote under sub-rule (1) namely:—

- i) Magistrates;
- ii) District Registrars;
- iii) Sub-Registrars:

Provided that such person attesting the declaration paper due to incapacity of an elector, should not be a near relative of the candidate contesting the election.

34. *Closing of ballot box.*— The Returning Officer shall close the slit of the ballot box and seal it immediately after the hour appointed on the last fixed for the poll.

35. *Procedure of counting.*— The scrutiny and counting of votes shall be conducted by the Returning Officer from the hour appointed on the date fixed for the scrutiny and counting of votes. No person shall be present at the scrutiny and counting, except the Returning Officer and such persons as the Returning Officer may appoint to assist him, the candidate or not more than one representative of each candidate appointed by him in writing and approved by the Returning Officer. The ballot box shall be opened at the hour fixed for the scrutiny, and the envelope in the box scrutinised by the Returning Officer.

36. *Envelope when rejected.*— (1) An envelope shall be rejected before opening:—

- (a) if it is not the one sent by the Returning Officer;
- (b) if it does not bear any serial number.

(2) If two envelopes bearing the same serial number are received and one of them is superscribed as 'Duplicate' the latter along shall be accepted.

37. *Ballot paper cover when rejected.*— (1) A ballot paper cover shall be rejected:—

- (i) if it is not accompanied by the declaration paper sent by the Returning Officer; or

- (ii) if the envelope contains no declaration paper outside the ballot paper cover; or
- (iii) if the envelope contains anything other than the declaration paper and the ballot paper cover, or
- (iv) if the declaration is not in accordance with those rules; or
- (v) if the ballot paper is placed outside the ballot paper cover; or
- (vi) if more than one declaration paper or ballot paper cover have been enclosed in one and the same envelope; or
- (vii) if the serial number in the declaration paper differs from the serial number of the envelope addressed to the Returning Officer.

(2) In each case of the rejection, the word "Rejected" shall be endorsed by the Returning Officer on the ballot paper cover or the declaration paper, as the case may be.

38. *Manner of recording votes.*— Every elector entitled to vote at the election shall have as many preferences as there are candidates. An elector may indicate the order of his preference by placing the number/figure 1, 2; and so on against the names of the candidates, who represent respectively his first, second choice, and so on.

39. *Ballot paper when rejected.*— (1) The ballot paper covers other than those rejected shall be mixed together and then opened in the presence of the Returning Officer. The Returning Officer shall then proceed with the scrutiny of the ballot papers.

(2) The Returning Officer shall reject a ballot paper as invalid, for the following reasons, namely:—

- (i) if the ballot paper cover contains any matter other than the ballot paper;
- (ii) if it does not bear the initials of the Returning Officer;
- (iii) if the voter signs his name or writes any word or makes any mark by which the identity of the voter becomes recognizable;
- (iv) if the figure 1 is not marked; or
- (v) if the figure 1 is set opposite the name of more than one candidates, or is so

marked as to render it doubtful to which candidates it is intended to apply; or

- (vi) if the figure 1 and some other figure are set opposite the name of the same candidate;

(3) On every paper so rejected under sub-rule (2) the Returning Officer shall endorse the word "Rejected" stating the grounds of rejection, and keep such rejected papers in a separate packet.

40. *Fractions and preferences.*— In carrying out the provisions regarding the procedure for election under these Rules;

- (1) all fractions shall be disregarded; and
- (2) all preferences recorded for candidates already elected or excluded from the poll shall be ignored.

41. *Division into parcels according to first preference.*— After the invalid ballot papers, if any, have been rejected the remaining papers shall be divided into parcels, according to the first preference recorded for each candidate and the number of papers in each parcel noted and credited to the concerned candidates account.

42. *Quota.*— The number of papers in all the parcel shall then be added together and the total divided by a number exceeding by one the number of vacancies to be filled by election and the quotient increased by one shall be number sufficient to secure the return of candidate, hereinafter called the "Quota".

43. *When persons who obtained quota are declared elected.*— (1) If at the end of any count a number of candidates equal to the number of vacancies to be filled by election has obtained the quota, such candidates, shall be treated as elected and no further steps shall be taken.

(2) Any candidate in whose parcel the number of votes on the first preference being counted is equal to or greater than the quota, shall be duly declared elected.

(3) If the number of papers in any such parcel is equal to the quota, the papers shall be set as finally disposed of.

44. *Transfer of surplus.*— (1) If the number of the papers in any such parcel is greater than the quota, the surplus shall be transferred to the continuing candidates indicated on the ballot papers as next in the order of the voters preference, in the manner hereinafter specified.

(2) If more than one candidate has a surplus, the largest surplus shall be dealt with first and the others in the order of magnitude, provided that, every surplus arising on the first count or votes shall be dealt with before those arising on the second count, and so on.

(3) Where two or more surpluses are equal, regard shall be had in the original votes of each candidate and the candidate who is credited when the largest number of original votes are equal, the Returning Officer shall decide by lot which candidate shall have his surplus first distributed.

(4) (i) if the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel belonging to the candidate, divide the unexhausted papers into sub-parcels according to the next preference recorded thereon and make a separate sub-parcel of the exhausted papers;

(ii) the number of the papers in each sub-parcel and the total of all the unexhausted papers shall then be ascertained;

(iii) if the total number of the unexhausted papers is equal to or less than the surplus to be transferred all the sub-parcels shall be transferred to the continuing candidates, the value of each paper so transferred being one.

(iv) if the total number of unexhausted papers is greater than the surplus, the sub-parcels shall be transferred to the continuing candidates and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(5) If, in ascertaining the number of papers to be transferred from a sub-parcel, fractional parts are found to exist and if, owing to the existence of such fractional parts, the number of papers to be transferred is less than the surplus, as many of these fractional parts taken in the order of their magnitude, beginning with the largest, as are necessary to make the total number of papers to be transferred equal to the surplus shall be reckoned as of the value

of unity, and the remaining fractional parts shall be ignored. If two or more fractional parts are equal magnitude, that fractional part shall be deemed to be the larger which arises from the largest sub-parcel and if the sub-parcels in question are equal in size, preference shall be given to the candidate who obtained the larger number of original votes.

(6) If the surplus of any candidate to be transferred arises from transferred as well as original votes, all the papers in the sub-parcel last transferred to the candidate shall be examined and the exhausted papers divided into sub-parcels according to the next preference as recorded thereon. The sub-parcels shall be dealt with in the same manner as is provided in the case of the sub-parcels referred to in sub-rule (4)

(7) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate and value of such transferred votes credited to his account.

(8) All the papers in the parcel or sub-parcel of an elected candidate not transferred to any continuing candidate under these rules shall be set apart as finally disposed of.

45. *Exclusion of candidate lowest in the Poll.*— (1) If, after all the surplus have been transferred as hereinafter provided, the number of candidates elected is less than the required number, the Returning Officer shall exclude from the poll candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences marked thereon and any exhausted papers shall be set apart as finally disposed of.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of such paper being one.

(3) The papers containing the transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which, and at the value at which he obtained them.

(4) Each of such transfer shall be deemed to be a separate transfer, but not a separate count.

(5) If the total of the votes of two or more candidates lowest on the poll together with any surplus votes transferred, is less than the votes credited to the next highest candidate, those candidates may in one operation be excluded from the poll and their votes transferred in accordance with the provisions in sub-rule (1) to (4).

(6) The above process shall be repeated on the successive exclusions one after another of the candidate lowest on the poll until last vacancy is filled, either by the election of a candidate with the quota or as hereinafter provided.

46. *Completion of transfer when quota obtained.*— If, as a result of a transfer of papers under these rules, the number of votes obtained by a candidate is equal or greater than the quota, the transfer then proceeding shall be completed and no further papers shall be transferred to him.

47. *Procedure in the case of candidate obtained votes equal to or greater than the quota.*— (1) After the completion of any transfer under these rules, the number of votes of any candidate is equal to or greater than the quota, he shall be declared elected.

(2) If the number of votes of any candidate is equal to the quota, i. e. whole of the papers on which such votes are recorded shall be set aside as finally disposed of.

(3) If the number of the votes of any sub-candidate is greater than the quota, his surplus shall thereupon be distributed in the manner herein before provided, before the exclusion of any other candidate.

48. *When continuing candidates are declared elected.*— When at the end of any count, the number of continuing candidate is reduced to the number of vacancies remaining unfilled, the continuing candidate shall be declared elected.

49. *When the number of votes of one candidate exceeds the total votes of the other candidate.*— When at the end of any count only one vacancy remains unfilled and the number of votes of any candidate exceeds the total of all the votes of the other continuing candidates together with any surplus not transferred, the candidate shall be declared elected.

50. *When continuing candidates have equal number of Votes.*— When at the end of any count only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes and no surplus remains capable of transfer, the Returning Officer shall decide by lot which of them shall be excluded, and after the exclusion of the candidates by drawing lots, the other candidate shall be declared elected.

51. *Exclusion of candidate when two or more candidates have equal number of votes.*— If at any time it become necessary to exclude a candidate and two or more candidates have same number of votes and are lowest on the poll, regard shall be had to the original votes of each candidate, and the candidate for whom the lowest original votes are recorded shall be first excluded, and if their original votes are equal, the Returning Officer shall decide by lot which candidate shall be excluded.

52. *Recounting.*— (1) Any candidate or his agent may, at any time during the counting of votes, either before the commencement or after the completion of any transfer of votes, request the Returning Officer to re-examine or recount the papers of all or any candidate (not being papers set aside at any previous transfer as finally disposed of) and the Returning Officer shall forthwith re-examine or recount the same accordingly.

(2) The Returning Officer may, at his discretion, recount the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count, provided that, nothing in these rules shall make it obligatory on the Returning Officer to recount the same votes more than once.

53. *Declaration of results.*— The Returning Officer shall at the end of the counting declare the names of the candidates who have been duly elected.

54. *Record of election.*— (1) The Returning Officer shall prepare a record in the prescribed form showing,—

- (a) the number of voters who voted;
- (b) the number of ballot papers rejected;
 - (i) as being received late;
 - (ii) for irregularities connected with the declaration;

(iii) as invalid;

(c) the number of valid ballot papers;

(d) the number of votes obtained by each candidate at each stage of the transfer;

(e) the stages at which each candidate was declared elected.

(2) The Returning Officer shall also prepare a result sheet showing the result at various stages of the counting.

55. *Election disputes.*— (1) Where a dispute arises as to the validity of an election of a member of the Board, any person interested may within seven days of the declaration of the result of the election file a petition before the Tribunal for decision and the decision of the Tribunal thereon shall be final.

(2) The election petition shall be accompanied by a court fee of rupees one hundred.

(3) Every petition referred to in sub-section (1) shall be disposed of by the Tribunal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit.

56. *Preservation of election papers.*— The nomination papers, ballot papers, declaration papers and the ballot paper covers shall be preserved in the Board Office for a period of one month after the date of declaration of the result or if any, disputed arises regarding the election, until it is disposed of, thereafter, they may be destroyed.

57. *Declaration of election of certain members.*— (1) Where the number of Muslim Members of Parliament, the State Legislature or State Bar Council, as the case may be, is less than or equal to the number of members to be elected from each category, such Muslim member/s shall be declared to have been elected on the Board.

(2) Where the number of Muslim Members of Parliament, the State Legislature or the State Bar Council, as the case may be, is only one, such Muslim member shall be declared to have been elected on the Board and the remaining vacancy shall be filled in the manner referred to in sub-rule (3).

(3) Where person declared to have been elected under sub-rule (1) or sub-rule (2) is not willing to serve as a member of the Board or such Member

is only one, the Government may after recording its reasons, fill the vacancies by nominating such persons as the members of the Board as it deems fit under sub-section (3) of section 14.

(4) Where there are no Muslim Members in any of the categories mentioned in sub-clauses (i), (ii) and (iii) of clause (b) or sub-section (1) of section 14 of the Act, the ex-Muslim Members of the Parliament, the State Legislature or ex-member of the State Bar Council, as the case may be, shall constitute the electoral college of the Parliament, the State Legislature, the State Bar Council, as the case may be.

(5) Where the number of electors, in each category under Sub-rule (4) is less than or equal to the number of members to be elected from each category such Muslim Member shall be declared to have elected on the Board.

(6) Where the person declared to have been elected under sub-rule (5) is not willing to serve as a member of the Board or such member is only one, the Government may, after recording its reason fill the vacancies by nominating such persons as the member of the Board as provided under sub-section (3) of section 14 of the Act.

58. Reservation of Membership to Shia Muslim.—

(1) Where there are Shia Wakfs but no separate Shia Wakfs Board exist and the person elected under categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1) of section 14 or the persons nominated under clause (c), (d) or (e) of sub-section (1) of section 14 is not Shia Muslim, Government shall reserve a seat under sub-clause (iv) of clause (b) of sub-section (1) of section 14 to Mutawallis of the Shia Wakfs having an annual income of one lakh and above:

Provided that where there is no mutawalli of the Shia Wakf having an annual income of Rupees ten thousand and above no seat shall be reserved for Shia Muslim under the said category.

(2) where it is not possible to reserve a seat to Shia Muslim under sub-rule (1) one of the seats under clauses (c) to (e) of sub-section (1) of section 14 to be nominated shall be reserved to Shia Muslim.

59. Publication of appointment of Members in the Gazette.— As soon as may after the election or nomination of the members under sub-section 14

Government shall appoint such members by notification in the Gazette.

60. Expenses in connection with election.— Funds to meet all expenses in connection with the election to the Board including these in relation to the preparation of electoral roll therefore, shall be provided by the Board to the Returning Officer.

61. Election of Chairperson.— (1) After the appointment of members of a newly constituted Board, Government shall, as soon as may be arrange to fix, by giving to the members not less than ten clear days notice, a date for the first meeting of the Board which shall be for the election of the Chairman. The notice shall state the time and place of the meeting as well as the fact in such meeting the Chairman should be elected.

(2) The meeting shall be presided over by the Collector of the District in which the office of Wakfs Board is situated or by an officer not below the rank of a Deputy Collector authorised by the Government in this behalf who shall conduct the proceedings for the election of the Chairman.

(3) The nomination of a candidate to the post of Chairman shall be made by the Officer mentioned in sub-rule (2). The nomination should be seconded by another member. The voting shall be by secret ballot.

(4) A member shall have only one vote. The candidate securing the highest number of votes shall be declared to have elected as Chairman.

(5) In case of a tie the names of the candidates shall be put to lot and the Chairman shall be selected from the lot.

(6) The Chairman shall be the Executive Head of Wakf Board.

62. Dispute regarding election of the Chairman.—

(1) Where a dispute arises as to the validity of election of the Chairman, any member of the Board may within seven days of the declaration of the result of the election file a petition before the Tribunal for decision, and the decision of the Tribunal thereon shall be final.

(2) Every petition referred to in sub-section (1) shall be disposed of by the Tribunal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit.

CHAPTER IV

Terms of office and other conditions of service of the Chief Executive Officer

63. *Appointment of Chief Executive Officer.*— (1) There shall be appointed a Chief Executive Officer who shall be a Government Servant or an employee of the Board or any other person.

(2) The Chief Executive Officer shall also be the Secretary of the Board.

(i) The Board shall pay the Chief Executive Officer such salary and allowances as may, from time to time, be fixed by the Government and shall if he is a Government servant make such contributions towards his leave allowance, pension and provident fund as may be required by the condition of his service under the Government to be made by him or on his behalf.

(2) The Government may at any time, transfer the Chief Executive Officer from the Board if he is a Government employee and shall do so if such transfer is recommended by a resolution of the Board passed at meeting supported by a simple majority of votes.

(3) When disciplinary proceedings have to be initiated against the Chief Executive Officer, who is a Government servant, or a Board employee or a direct recruit, the Chairman shall be entitled to make an enquiry against such officer and to report to the Government and the Government shall have the power to impose any penalty as contemplated under the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

(4) In case the Chief Executive Officer who is a Board Employee, the Board shall also be competent to impose any penalty to such officer.

64. *Qualification for appointment as Chief Executive Officer.*— (1) The Chief Executive Officer of the Board appointed under section 23 shall be a Muslim, a citizen of India and an ordinary resident in the State.

(2) The method of appointment of the Chief Executive Officer shall be, —

(a) by deputation from Government service from an officer not below the rank of a Under Secretary to the Government Deputy Collector; or

(b) in the absence of suitable officer under item (a) above, by appointment from the employees of the Board who possess ten years service under the Board and holding a post in the scale of pay of which is not less than that of a Section Officer in the Government Secretariat and who in the opinion of the Government is competent to hold the post of the Chief Executive Officer; or

(c) in the absence of suitable candidate under items (a) and (b) above, by direct recruitment.

(3) No person shall be appointed as Chief Executive Officer:—

(a) under item (b) of sub-rule (2) unless he possess a degree in law from recognised University.

(b) under item (c) of sub-rule (2) unless he possess a degree in law and has practiced as an Advocate for not less than 10 years in any courts in the State and has not completed 50 years of age as on the date of appointment.

(4) Notwithstanding anything contained in these rules the Government may appoint any person, who is in the opinion of the Government is competent to hold the post of Chief Executive Officer, on contract basis for a period not exceeding three years. Provided that, no age limit is applicable to such appointment.

65. *Functions of the Chief Executive Officer.*— Subject to the provisions of the Act and the rules the Chief Executive Officer shall, —

(a) discharge all the duties and exercise all the powers specifically imposed or conferred on the Chief Executive Officer by or under the Act;

(b) attend the meetings of the Board and of the Committee and may take part in discussions purely in an advisory capacity, but shall have no right to move any resolution or to vote;

(c) attend any meeting of a Committee of the Board if required to do so by the person presiding thereon;

(d) control of officers and employees working under the Board of Wakfs under the administration of the Board subject to the general superintendence and the control of the Board;

(e) initiate disciplinary action against all officers and employees of the Board or Wakfs under the administrative control of the Board;

(f) carry into effect the resolutions of the Board; and

(g) such other functions as may be delegated by the Board.

66. *Leave and T. A. Rules etc., of the Chief Executive Officer.*— (1) The rules relating to casual leave for Government servants and the leave rules applicable to Government servants shall apply to the Chief Executive Officer. Casual leave shall be sanctioned by the Chairman of the Board and leave other than casual leave by an officer authorised by the Government in this behalf.

(2) The rules relating to travelling allowances as applicable to Government servants and for the time being in force, shall apply to the Chief Executive Officer.

(3) The Chief Executive Officer shall be eligible for Dearness and other allowances as admissible to Government servants drawing similar pay.

(4) The confidential report on the work and conduct of the Chief Executive Officer shall be prepared and forwarded to the Secretary to the Government in charge of the Revenue Department, by the Chairman of the Board.

67. *Powers of the Chief Executive Officer to inspect records, registers etc.*— (1) The Chief Executive Officer or any officer of the Board empowered by him in this behalf, may,—

(a) call for any record, register or other documents in the possession or under the control or any Wakf registered under the Board or administered by the Board;

(b) require any such Wakf to furnish any return, plan estimate, statement of accounts of Wakf property administered by it;

(c) require any such Wakf to furnish any information or report on any matter connected with such Wakf;

(d) require any such Wakf to obtain the previous sanction of the Board before giving up a claim or closing down any institution administered by it which is a source of income; and

(e) have power to inspect any office or any records or other documents of such Wakf or movable properties of such Wakf or any work or institution or property under the control of the Wakf;

(2) Every Mutawalli of such Wakf or any officer or employee of such Wakf shall be bound to give facilities for exercising duties under clause (e) of sub-rule (1).

(3) The Chief Executive Officer or any officer of the Board duly authorised by him in this behalf shall, subject to the payment of such fees if any, as may be leviable under any law for the time being in force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a Wakf or movable or immovable properties which are Wakf properties or are claimed to be wakf properties and it shall be the duty of the officer in charge of such public office to afford all facilities and assistance as may be necessary or reasonably required in regard to the inspection:

Provided that such inspection shall be made only on working days and after giving 15 clear days notice to the officer in charge of such public office of the intention of such inspection.

68. *Power of the Government to suspend or cancel an order or resolution passed by the Board on the basis of the report of Chief Welfare Fund Inspector.*— (1) Where on the basis of a reference made by the Chief Welfare Fund Inspector under section 26 of Act the Government may examine the record of the Board in respect of any proceedings to satisfy themselves as to the regularity of such proceedings or the legality of any decision or order passed therein; and, if, in any case the Government are satisfied that any such resolution or order should be modified, annulled or reversed or remitted for reconsideration on any grounds mentioned in clause (a) to (d) of section 26, they may pass orders accordingly.

(1) Provided that the Government shall not pass any order affecting any party unless such party has had an opportunity of making a representation.

(2) The Government may stay the execution of any such decision or order pending the exercise of their powers under sub-rule (1) in respect thereof if there is prima facie case of irregularity or illegality.

CHAPTER V

Inspection of Board records and granting of copies of records

69. *Inspection of records maintained by the Board.*— The mutawalli of any Wakf registered with the Board or the Executive Officer of such wakf or any officer of the wakf duly authorised by the mutawalli shall, be entitled at all reasonable time with due notice to visit the Board office and to inspect any records, registers or other documents relating to the wakf in which he is the mutawalli or the Executive Officer and it shall be the duty of the Chief Executive Officer or any officer in charge of the records, registers or other documents to afford all facilities and assistance as may be necessary or reasonably required in regard to the inspection.

70. *Application for granting of minutes or records or documents or proceedings.*— (1) A person requiring a copy of any minutes or record or proceedings or any documents of the Board shall present an application giving his full name and address and as accurate a description as possible of the record or proceedings of which he wants a copy.

(2) When the proceedings or records copies of or extracts from which they are applied for, belong to any year prior to the current calander

year, a search fee according to the scale specified below shall be remitted to the Board as soon as the application has been admitted, namely:—

- (a) for searching records of any one year for a single document or entry Rupees five.
- (b) For searching records for every additional year. Rupees three.

Note — (1) A separate application need not be presented in respect of each proceeding or record of which a copy or extract is required.

(2) Enclosures or annexures to letters, accounts or other document form part of the documents to which they appertain and shall not be reckoned for purposes of search as separate documents.

71. Authenticated copies of minutes or record of document or proceedings.— (1) An authenticated copy of any minutes or record or proceedings or document of the Board shall be granted on payment of the fees specified in sub-rule (2) of rule 70 and rule 72.

(2) The applicant shall be informed by the Chief Executive Officer or such other officer authorised by him of the date on which the copy will be ready for delivery.

(3) The Chief Executive Officer or such other officer authorised by him shall immediately arrange for the preparation of the copy and have it ready on the date specified under sub-rule (2). The Chief Executive Officer or the officer authorised by him shall after the copy is compared with the original authenticate it by signing the same in token of correctness and affixing therein the seal of the Board and shall certify as stated in sub-section (2) of section 30 of the Act.

(4) A receipt signed by the Chief Executive Officer or any person authorised by him in this behalf shall be furnished to every person depositing search fees and copying fee under rule 70 and rule 72, respectively.

72. Copying fee.— The following fees shall be payable in cash for the grant of a certified copy of any record or proceedings, namely:—

- (i) For every sheet of page used in making photostate copy Rupees two
- (ii) Other than photostate copy
 - (a) for every 25 words or fraction of 25 words 10 paise
 - (b) in case the original is in tabular form Twice the rate specified in clause (a)
 - (c) for examining or comparing records or a fraction 100 words 10 paise

- (d) for every sheet or page used in making the copy 10 paise

Note — (1) If figures are copied five figures shall be counted to equivalent to one word.

(2) When maps or plans are copied a reasonable fee shall be fixed by the Board.

73. Refusal to grant copy.— (1) The Chief Executive Officer or such other officer authorised by him may, if he considers that grant of a copy of any record or proceedings is objectionable, reject the application stating briefly the reason therefor, he shall not reject except with the previous approval of the Chairperson.

(2) The fee paid for copying shall be refunded if the copy of any record or proceedings is not granted:

Provided that if the record is not found, the fee paid shall not be refunded, but the applicant shall be furnished with a certificate stating that the document applied cannot be found.

74. Register of issue of copies of records.— The Chief Executive Officer and Officers authorised to issue copies of records and proceedings of the Board shall keep a register to record the grant of copies of extracts of the records in the form prescribed by regulations.

CHAPTER VI

Powers of the Board of the Chief Executive Officer or other Officers authorised to hold inquiries

75. Powers of the Board and other Officers.— (1) Where the Board in deciding any question under the provisions of the Act or where the Chief Executive Officer in deciding any question authorised by the Act or the Board or where any officer in deciding any question authorised by the Board under the Act, as the case may be, considers it necessary or proper to make an inquiry, than the Board, the Chief Executive Officer or the Officer authorised by the Board, as the case may be, for the purposes of holding such inquiry, have the following powers, namely:—

(a) to summon any person resident in the State whose evidence may appear to it/him to be necessary for the investigation of any matter under inquiry and also to require the production of any document relevant to the matter under enquiry which may be in the possession or under the control of such person, or

(b) requiring the discovery and production of any document or material object produceable as evidence; and

(c) to grant to any such person such allowance as is admissible to a witness summoned by a civil court and to pass orders as to the person by whom or find out of which the allowance shall be paid.

76. *Issue of notices.*— (1) Such notices shall be in the writing and authenticated by the Chief Executive Officer or any officer specially authorised in this behalf.

(2) It shall require the person summoned to appear before the Board or the officer at a stated time and place and shall specify whether his attendance is required for the purpose of giving evidence or to produce document or for both purposes and any particular document, the production of which is required shall be described in the notice with convenient certainty.

(3) Any person may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such documents to be produced instead of attending personally to produce the same.

(4) When a person whose evidence may be required is unable from sickness or infirmity, to attend before the officer issuing the notice or is a person exempt from personal appearance under the Code of Civil Procedure, 1908, the officer assuing the notice may of his own motion, or application of the party whose evidence is desired, dispense with the appearance of such person and order him to be examined by an officer for the purpose.

77. *Rights of person summoned.*— (1) All persons who appear in response to the notices issued shall within the time specified in the notice or within such further time as may be granted, file statement containing their objections or suggestions:

Provided that the Board may allow, any person who has not filed a statement within a stipulated time to make representation during the subsequent stage of inquiry.

(2) Any party to the proceedings shall have the right to appear in person or by pleader to adduce oral or documentary evidence and also apply for summoning of witness or production of documents.

78. *Return of documents produced.*— Any person desirous of receiving back any document produced by him at the enquiry shall be entitled to receive back the same if the proceedings in which the orders made are not liable to be questioned before the tribunal.

79. *Service of notice how effected.*— When any notice or other document is required by the Act or

by these rules or any regulation or order made under it, to be served on or sent to any person, the service or sending thereof may be effected;

(1) (a) By giving or tendering the said notice or document to such person;

(b) if such person is not found, by leaving such notice or document at his last known place of abode or business or giving or tendering the same to some adult member or servant of his family or to the Head of the Institution or any authorised person in the case of employees working in firms, work place, etc. and on shift duties outside the normal working hours of public offices or where admission of notice serving officials of the Board are restricted and normal course of serving notices is not possible; or

(c) if such person's address elsewhere is known to the Chief Executive Officer, by sending the same to him by registered post; or

(d) if none of the means aforesaid be available, by affixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the notice or document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any notice, form or other document served or sent under the Act or these rules or any regulation or order made thereunder, a period is fixed within which any document is to be produced or anything is to be done or executed such period shall, in the absence the Act, rules, regulation or order of any distinct provision to the contrary, calculated from the date of such service or sending.

(4) In case of refusal of a notice the date of refusal shall be deemed to be the date of service.

CHAPTER VII

Appointment of Executive Officers

80. *Appointment of Executive Officers by the Board.*— The Board may if is of the opinion that it is necessary so to do in the interest of the Wakf, appointment whole-time or part-time basis or in an honorary capacity an Executive Officer with

such supporting staff as it considers necessary for any Wakf subject to the following conditions, namely:—

(a) the gross annual income of such Wakf shall not be less than five lakhs rupees;

(b) the person chosen for appointment should be a person professing Islam and possess the qualification to appoint to the post of Assistant in the Secretariat of the Government;

(c) to settle any new scheme of management for a Wakf;

(d) such appointment is necessary for generating additional income to the Wakf;

(e) to improve the management and income of the Wakf;

(f) the annual salaries and allowances of the Executive Officer and his staff shall not exceed five percent of the gross annual income of the Wakf, and;

(g) the appointment shall satisfy all the conditions laid down in the regulations.

81. Powers and duties of the Executive Officer.—

(1) Subject the direction, control and supervision of the Board and Executive Officer shall administer the property of the Wakf for which he has been appointed as Executive Officer.

(2) He shall not interfere with any religious duties or any usage or custom of the Wakf sanctioned by the Muslim Law.

(3) The salaries and the allowances of the Executive Officer and his staff shall be paid by the Board from the Wakf Fund in the first instance and the Board may claim reimbursement of amounts spent on the salaries and allowances from the fund of the Wakf concerned as and when such Wakf generates additional income.

CHAPTER VIII

Budget

82. *Preparation and finalisation of budget of Wakf.*— (1) Every mutawalli of the Wakf shall in every year prepare in Form I (a), Form I (b) and Form I (c) hereto a budget in respect of the financial year next ensuing showing the estimated the receipts and expenditure during that financial year and forward the same to the Board at least ninety days before the beginning the financial year.

(2) The Board shall scrutinise the budget proposal and ensure that provision has been made therein for the obligatory expenditure referred to in sub-section (2) of section 44 of the Act and for carrying out the purpose which may have been specifically enjoined on the Wakf by the deed of the Wakf.

(3) If the Board is satisfied that adequate provision has not been made in the budget it shall have power to modify it in such manner as may be necessary to secure such provision and return it to the mutawalli concerned.

(4) Every mutawalli shall consider the observations and incorporate the modifications made by the Board in the budget and pass the budget before the beginning of the financial year to which it relates.

(5) Notwithstanding anything contained in these rules the Board may, direct a mutawalli to modify its estimates keeping with the provisions of the Act and the Wakf deed and such mutawalli shall forthwith comply with the direction of the Board.

(6) As soon as the budget is passed every mutawalli shall forthwith submit copies thereof to the Board and the auditors.

(7) No sum shall be expended by or on behalf of a Wakf unless such sum is included in the budget estimates sanctioned under section 44 of the Act and in force at the time of incurring the expenditure.

(8) If in the course of the year, a mutawalli finds it necessary to alter the figures shown in the budget with regard to receipts or the distribution of the amounts to be expended on the different services undertaken by him on behalf of the Wakf a supplemental or revised budget may be framed and got sanctioned in the manner provided in the foregoing provisions in these rules and copies thereof submitted forthwith to the Board and to the auditor.

83. *Preparation and finalisation of budget of Wakf under the direct management of the Board.*—

(1) The Chief Executive Officer shall prepare, in Form I, before the third week of January every year a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure for each of the Wakfs under the direct management of the Board, showing therein the estimated receipts and expenditure and submit it to the Board for its approval.

(2) Every budget submitted by the Chief Executive Officer shall comply with the requirements of section 46 and, for this purpose, references therein to the mutawalli of the Wakf shall be construed, as reference to the Chief Executive Officer. Alongwith the budget the Chief Executive Officer shall also prepare and forward a statement giving details of the increase if any, in the income of each Wakf under the direct management of the Board and the steps which have been taken for its better management and the results accruing there from during the year.

(3) The Board shall scrutinise the budget proposal and ensure that provision has been made therein for the obligatory expenditure to be incurred under the Act and the administrative charges that shall be payable by the Wakf to the Board.

(4) If the Board is satisfied that adequate provision has not been made in the Budget it shall have power to modify in such manner as may be necessary to secure such provision and pass the budget before the beginning of Financial year which it relates and forward a copy of each budget to the auditor.

(5) If in the course of the year, the Chief Executive Officer finds it necessary to alter the figures shown in the budget with regard to the receipts or the distribution of the amounts to be expended on the different services undertaken by the Board on behalf of the Wakf, a supplemental or revised budget may be framed and got sanctioned in the manner provided in the rule and copies thereof forwarded to the auditor.

84. *Preparation and finalisation of the budget of the Board.*— (1) The Chief Executive Officer shall in every year prepare in Form I (a) Form I (b) and Form I (c) hereto a budget in respect of financial year next ensuing showing the estimated receipts and expenditure during the financial year and place before the Board atleast 60 days before the beginning of the financial year.

(2) The Board shall scrutinise the budget proposal and make suitable modifications if necessary and forward the copy of the same to the Government during the first week of February.

(3) On receipt of the budget forwarded to it, the Government shall examine the same and suggest such alteration, corrections and modifications to be made therein as it may think fit and forward such suggestions to the Board for its considerations.

(4) On receipts of the suggestions from the Government if the Board is not agreed to with any modifications, correction or alteration made by the Government to the budget, the Board may forthwith make written representation to the Government with regard to the alterations, corrections or modifications suggested by the Government.

(5) The Government shall consider the representation of the Board and pass final orders in the matter and communicate its decision within a period of three weeks from the date of receipt of such representation.

(6) On receipt of the suggestions from the Government, and if no representation has been made by the Board to such suggestions or the Government have communicated its decision regarding any representation if any made by the Board, the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the Government and the budget as so altered, corrected or modified, shall be passed by the Board. A copy of the budget so passed shall be forwarded to the Government and the auditor.

(7) If in the course of the year, the Board finds it necessary to alter the figures shown in the budget with regards to the receipts or the distribution of the amounts to be expended on the different services undertaken by the Board, a supplemental or revised budget may be framed and got sanctioned in the manner provided in this rule and copies thereof forwarded to the Government and the auditor.

(8) No sum shall be expended by the Board unless such sum is included in the budget estimates sanctioned under section 78 of the Act, and in force at the time of incurring the expenditure.

CHAPTER IX

Finance, Accounts and Audit of Accounts

85. *Annual contribution payable to the Board.*— The mutawalli of every Wakf, the net annual income of which is not less than five thousand rupees, shall pay annually to the Board seven percent of such annual income as annual contribution.

86. *Determination of annual contribution.*— (1) The mutawalli of a Wakf shall within such time as may be fixed by the Board and in such form as

may be determined by the Board submit a return of the net annual income of the Wakf to the Chief Executive Officer.

(2) On receipt of a return under sub-rule (1), the Chief Executive Officer shall verify the return submitted by the mutawalli and if he satisfy the correctness of the return he may fix the annual contribution in accordance with such return. If no return is filed within the time, the Chief Executive Officer shall *suo moto* fix the annual contribution to be paid by the mutawalli.

(3) In case the Chief Executive Officer is of the opinion that the return submitted under sub-rule (1) is incorrect or false in any material particular, or the contents of such return do not comply with the provisions of the Act or those rules or any order issued by the Board he may after giving the mutawalli concerned calling upon him to show cause within the time specified in the notice as to why such assessment of the return shall not be revised.

(4) The Chief Executive Officer after considering the reply if any received from the mutawalli concerned may assess the net annual income of the Wakf to the best of his judgement or revised the net annual income as shown in the return submitted by the mutawalli and the net annual income as so assessed or revised shall be deemed to be the net annual income of the Wakf.

(5) Any mutawalli who is aggrieved by the decision of the Chief Executive Officer in fixing or revision the assessment, may prefer an appeal to the Board within thirty days from the date of receipt of the assessment or revision of return and the Board may, after giving the mutawalli a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return.

87. *Remission or reduction of contribution.*— (1) The Board may on application from a mutawalli by order sanction remission or reduction of the contribution to be paid by mutawalli in the following cases, namely:—

(a) loss of money or stores or articles of the Wakf not due to the negligence of the mutawalli or other servants of the Wakfs;

(b) loss of income due to failure of crops on account of draught, floods or other unforeseen cause beyond the control of the mutawalli or other servants of the Wakf;

(c) paucity of funds due to non recovery of loans, advances and debts;

(d) where the income of the Wakf is insufficient to meet the remuneration payable to the Khatheeb, Imam, Muazzin and other employees attached to the Mosque and the religious instructor's attached to the Madrassa or Makkaba under the management of the Wakf.

(2) Before a reduction or remission of contribution is ordered, the Board shall make a thorough investigation into the circumstances of each case and satisfy itself that such reduction or remission is warranted.

(3) The reduction or remission sanctioned by the Board shall be operative only for the year in which it is sanctioned.

88. *Wakf Fund and its operation.*— (1) All moneys received or realised by the Board under the Act or these rules and all other moneys received as donation, benefactions or grants by the Board shall form a fund to be called the Wakf Fund.

(2) All moneys received by the Board as donations, benefactions and grants shall be deposited and accounted for under a separate sub-head.

(3) The Chief Executive Officer of the Board or any officer authorised by the Board shall receive all payments to the Wakf Fund and make payments as authorised by the Board.

(4) All moneys received by or on behalf of the Board all proceeds of land or any other kind of properties sold by the Board, all rents and all interests, profits and other moneys accruing to the Board shall be included in the Fund of the Board.

(5) All moneys and receipts specified in the foregoing provisions and forming part of the Wakf fund shall be deposited in:—

(a) any Scheduled Bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (Central Act 2 of 1934);

(b) a post office saving Bank; or

(c) the State Co-operative Bank.

(6) The Board may invest any sums not required for immediate use in such securities or debentures or shares in companies as may be approved by the Government.

(7) All such deposits in the Bank shall be made in the name of Board. The Chief Executive Officer or the Chairperson shall have the power to operate the Bank account as per the directions of the Board.

(8) The Executive Officer or an Officer authorised by the Board may hold a recoupable permanent advance not exceeding Rupees two thousand for meeting petty expenditure.

(9) The appropriation of receipts to expenditure shall as a rule be avoided.

(10) All payments above two hundred and fifty rupees from Wakf Fund shall be made by cheques.

(11) The Board shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be provided by regulations. The pages in the account books, registers, receipts, etc., shall be serially numbered and each page affixed with a seal of the Board. The number of pages that each book or register contains shall be noted on the first page after actual verification by the Chief Executive Officer.

(12) All moneys received by any officer or employees of the Board in their official capacity shall forthwith and without any reservation, be brought to the account in the appropriate register and paid into the Bank without undue delay. No portion of the collection shall be kept back or used for current expenditure.

(13) It shall be the responsibility of the Chief Executive Officer to ensure the contributions, fees, rents and other amounts due to the Board are promptly demanded, realised and credited to the Wakf Fund.

89. *Duties and functions of Chief Executive Officer in regard to operation of accounts.*— (1) The Chief Executive Officer shall be over all incharge of the work relating to the finance, budget and accounts of the Board.

(2) The Chief Executive Officer shall discharge the following duties and functions in relation to the budget, account and audit of the Board, namely:—

(a) he will be responsible for ensuring that the budget estimates of the Board are properly framed keeping in view of the instructions issued by the Board and the Government in this

behalf and submit to the Board within the time schedule.

(b) he will scrutinise the budget proposals submitted by the mutawallies thoroughly and assist the Board in scrutinising the budget proposals;

(c) he will examine and advise on all schemes of new expenditure, for which, it is proposed to make a provision in the budgets;

(d) he will ensure that monthly and annual accounts of the Board are complied with properly and promptly;

(e) he will obtain necessary periodical returns of progress of expenditure, watch and review the progress against sanctioned amounts and issue such instructions as may be found necessary to the officers and employees of the Board;

(f) he will scrutinise the proposals for supplementary grants and advise the Board suitably;

(g) he will keep himself in regular touch with the audit objection and inspection reports of the audit and for their early settlement.

(h) he will keep a close watch on the recoveries of dues to the Board and repayment of loans and interest;

(i) he will be responsible for the maintenance of account of the Board;

(j) he will obtain periodical returns of stores and stocks and their value account from the officers and review them. He will offer his remarks on such account and place it before the Board;

(k) he will furnish any information, statistics that may be called for by the Board on matters relating to budget, accounts and audit.

(3) The Board shall before sanctioning proposals having financial implementations shall obtain the advice of the Chief Executive Officer. If his advice is not accepted, reasons therefore shall be recorded in writing.

(4) The Chief Executive Officer shall be consulted on all proposals for the release of funds or for investment, and his views obtained.

(5) The cases of serious financial irregularity noticed in the office of the Board shall be reported to the Chief Executive Officer. In all matters involving serious contravention of financial

provisions or serious financial irregularity, proposal to sanction, relaxation of or deviation from any financial rules or principles, proposals for write off or abandonment, remission or reduction of contribution shall be referred to the Chief Executive Officer and his opinion obtained before final orders are passed.

(6) The Chief Executive Officer shall arrange for internal audit of accounts of the Board periodically and take urgent steps to rectify any defects noticed during such audit.

(7) The Chief Executive Officer shall report to the Board all instances of payments made contrary to the rules and regulations besides cases where payments are made in the absence of any provision in the budget estimates.

(8) All defalcation or loss of Wakf Funds, stones, or property noticed in the office of the Board shall be reported to the Chief Executive Officer.

90. *Audit of accounts of the Board.*— (1) The Director of Local Fund Audit of the Government and his nominees or any other officer designated by the State Government in this behalf shall be the auditors of the Board and the Wakf directly administered by the Board.

(2) The auditors shall maintain a continuous audit of the accounts of the Board and shall after completing the audit for a year or for any shorter period or for any other transaction or series of transactions, send a report to the Chief Executive Officer and duplicate copy thereof to the Government.

(3) The auditors shall specify in the report under sub-rule (2) all cases of irregular, illegal or improper expenditure or of failure to recover money or other property thereof caused by neglect or misconduct of the officer or members of the Board.

(4) The auditor shall also report on any other matter relating to the accounts of the Board as may be required by the Board, the Government or the Chief Executive Officer.

(5) The Chief Executive Officer shall forthwith remedy any defect or irregularity pointed out by the auditors and report the action taken to the Board and the Government.

(6) The auditors shall after giving a reasonable opportunity to the persons concerned to explain his case, disallow every item of expenditure incurred contrary to law and certify that such amount may be recovered from such person.

(7) The Government shall examine the auditors report and may call for the explanation of any person in regard to any matter mentioned therein and shall pass such orders on the report as it thinks fit.

(8) Every sum certified to be due from any person by an auditor in his report be paid by such persons within sixty days after the services of a demand notice by the Board.

(9) If such payment is not made in accordance with the demand notice, the sum payable may on a certificate issued by the Board, be recovered as an arrear of land revenue.

(10) The cost of audit as determined by the Government shall be paid by the Board from the Wakf Fund.

91. *Audit of the accounts of Wakf under the direct management of the Board.*— (1) The audit of accounts of every Wakf under the direct management of the Board shall be undertaken by the *Director of Local Fund Audit* or his nominee.

(2) The provisions of sub-section (2) and (3) of section 47 of the Act regarding the manner of audit and realisation of cost of audit and the provisions of section 48 and 49 of the Act regarding the recovery of illegal or irregular payments made shall *mutatis mutandis* apply to the audit of accounts of Wakf under the direct management of the Board.

92. *Audit of accounts of Wakf registered under the Board.*— (1) Before the 1st day of May, in every year mutawalli of a Wakf shall prepare and furnish to the Board a full and true statement of accounts, in such form and containing such particulars as may be provided by regulations by the Board.

(2) Subject to sub-rule (3) the accounts of Wakfs submitted to the Board under section 46 of the Act shall be audited and examined in the manner laid down in sections 47, 48 and 49 of the Act.

(3) The accounts of the Wakf having net annual income exceeding ten thousand rupees shall be audited annually or biennial as may be determined by the Board from time to time.

CHAPTER X

Alienation of Wakf property

93. *Restriction on transfer.*— Any transfer effected by a mutawalli or any person of immovable

property owned by a Wakf without the previous permission of the Board shall be invalid.

94. *Application for permission.*— (1) An application for permission to alienate any immovable property owned by a Wakf shall be submitted by the mutawalli of the Wakf to the Chief Executive Officer of the Board and such application shall contain the following particulars, namely:—

(a) nature of the proposed transactions;

(b) descriptions of the property relating to the transactions with particulars regarding the survey number, extent, boundaries, the village, taluka and district in which the said property is located, number of any building;

(c) the details of revenue assessed on the properties relating to the proposed transaction by way of land revenue, excess, property tax and the like;

(d) the details of encumbrances to which the properties relating to the proposed transaction are subject;

(e) if the proposal is for creating mortgage, the amount for which the properties are proposed to be mortgaged;

(f) if the proposal is for sale or lease, the expected price or the rental, as the case may be, expended;

(g) if the proposal is for sale or mortgaged, the purpose for which the property is sold or mortgaged;

(h) the details of property proposed to be acquired with the sale proceeds;

(i) such other particulars as the Board may consider necessary.

(2) Every application shall be submitted with an Affidavit of the mutawalli or such other person empowered for alienation of the Wakf property explaining how the proposed transaction is beneficial to the Wakf and how the sale proceeds to be utilised.

(3) The Chief Executive Officer shall on receipt of an application from the mutawalli or on his own initiative in the case of properties of any Wakf directly managed by the Board, verify the details in the application and present before the Board with his recommendation.

(4) The Board may publish in the Gazette and in two local newspapers the particulars relating to the proposed transaction together with a notice specifying the date on or after which the proposal will be further considered by the Board and inviting objections and suggestions with respect to the proposals before a date specified in the notice.

(5) A copy of the notice shall, affixed on the notice board of the office of the Board and in some conspicuous place in which the property is situated.

(6) A Board shall consider all objections and suggestions which may have been received by it before the date specified in the notice and if the Board considers that:

(a) the proposed transaction is not for acquiring another property or contravenes any of the provisions of the Act the Wakf deed or is not intended for the improvement of the existing properties of the Wakf or is not in any way necessary or beneficial to the Wakf, the Board shall reject the application;

(b) further inquiry is necessary to decide whether the sanction applied for may be granted or not;

(c) the Board decides that the sanction is to be granted, it shall communicate its decision to the applicant and the interested parties.

(7) If the proposal is for the sale of the property the sale shall be conducted by public auction by the Chief Executive Officer in such manner and subject to such procedure as the Board may direct:

Provided that the Tribunal may, on the application of the mutawalli or other person, for reasons to be recorded by it in writing, permit such sale to be made otherwise than by public auction, if it is of opinion that it is necessary so to do in the interest of the Wakf.

(8) All auction shall be subject to the confirmation of the Board within thirty days from the date of conclusion of the auction. The Board shall be competent to cancel any auction for reasons to be recorded.

(9) In case of sale, the sale proceeds shall be paid to the Wakf Board by the purchaser and the instrument of transfer shall be submitted to the Board for its approval. When the instrument of transfer is approved by the Board, the Board cause

the sale proceeds to be deposited in scheduled Bank in the joint names of the Chairperson of the Wakf Board and the Mutawalli or Executive Officer of the concerned Wakf. The sale proceeds shall be utilised by the Mutawalli with the approval of the Board within six months of the execution of the sale deed for the acquisition of other properties for other purposes for which the property is sold.

(10) The utilisation or investment of the amount realised by the sale or exchange mortgage of any property shall be made by the mutawalli subject to the approval of the Board. Every approval given by the Board shall be communicated to the mutawalli and shall also be affixed on the notice board of the Board's Office and in any conspicuous place in which the property is situated.

95. *Recovery of Wakf property transferred in violation of the provisions of the Act and the Rules.*— (1) If the Board after making an inquiry through the Chief Executive Officer is satisfied that any immovable property of a Wakf entered as such in the register of Wakf maintained under section 36 of the Act has been transferred without the previous sanction of the Board and in contravention of the provisions in section 51 of the Act, it may send a requisition in Form II to the Collector within whose jurisdiction the property is situated to obtain and deliver possession of the property to it.

(2) Before sending a requisition under sub-rule (1) the Board shall publish in two local news papers its intention to make a requisition. A copy of the notice shall be affixed on the notice board of the office of the Board and in some conspicuous place in which the property is situated.

(3) On receipt of a requisition, the collector shall pass an order in accordance with the provisions contained in section 52 of the Act and obtain possession of the property of which the order has been passed, and deliver it to the Board. In exercising the function under section 52 of the Act, the Collector shall be guided by such rules as may be provided by regulations.

CHAPTER XI

Proceedings in Tribunal

96. *Presentation of proceedings.*— (1) All suits, petitions, appeals and other proceedings shall

be presented in person by the party or his advocate.

(2) Every suit, petition, appeal or application shall be accompanied by as many clear authenticated copies thereof as there are defendants/ respondents to be served and by an additional copy for the use of the tribunal and by such papers as are referred to in the suit, appeal, petition or application.

97. *Provisions of the Code of Civil Procedure, Civil Rules of practice and the Criminal Procedure Code to apply.*— Save otherwise provided in these rules, the provisions of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) of the Civil Rules of practice of the Code of Criminal Procedure Code, 1973 (Central Act 2 of 1974) as the case may be, shall apply to the proceedings before the Tribunal.

98. *Papers sent by Post.*— Unless the Tribunal otherwise orders, no documents required to be presented or filed into court which is sent by post or by telegram shall be received or filed into Tribunal.

99. *Office hours.*— (1) The office of Tribunal shall be open for the transaction of business from 10.00 a.m. to 3.30 p.m. on all days except Sundays and holidays. On Saturdays the office shall be closed for money transaction at 1.30 p.m.

(2) An urgent matter may, however be transacted after 3.30 p.m. with the permission of the Tribunal.

100. *Form of proceedings.*— All suits, petitions, affidavits, memoranda of appeal, application and other proceedings presented to the Tribunal, shall be written in blue black ink, or typewritten or printed, fairly and legibly on stamp paper or on substantial white fullscap folio paper with an outer margin of about 4 cm. and an inner margin of about 1.5 cm. and separate sheets shall be stitched together bookwise. Numbers shall be expressed in figures except in the case of suits, main petitions or memoranda of appeal, the writing or printing may be on both sides of the paper:

Provided, however, that the sheet shall, in all cases, be written or printed on the inner page only.

101. *Date stamping of papers.*— All the papers presented in Tribunal shall be date stamped immediately they are received.

102. *Summons to defendant/respondent.*— In all matters the form of summons to appear and answer shall be in the form of summons prescribed in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) with such variations as the circumstances, of the case may require.

103. *Name and address of the party to be stated in every process.*— The name and address of the party shall be stated in every summons, witness summons, interim application notice and every process of the Tribunal issued at the instance of such party.

104. *Mode of service of summons.*— (1) Summons together with the copy of the petition, suit, appeal or application and annexures, if any, shall be served in the manner prescribed in the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(2) Unless the Tribunal shall otherwise order the service of a summon to appear and answer shall be proved by evidence showing that the summon was served in the manner provided by the Code of Civil Procedure, 1908.

105. *Substituted service.*— Application for substituted service of the summons shall be governed by the corresponding provisions in the Code of Civil Procedure, 1908.

106. *Dismissal of suit, appeal etc. if summons not served within six months.*— If on account of the default of the petitioner, the summons is not served within six months from the date filling the suit, appeal, application or petition, as the case may be, the Tribunal shall, unless good cause is shown, dismiss the suit, appeal, application or petition. Such dismissal shall be notified on the notice board of the Tribunal.

107. *Place of sitting of the Tribunal.*— (1) A Tribunal shall ordinarily hold its sitting at the place where it is located or at such place as the High Court may specify from time to time by an order in that regard.

(2) Notwithstanding anything contained in sub rule (1), if in any particular case, the Tribunal is of the opinion that it will laid to the general convenience of the parties or of the witnesses or for any other purpose to hold sittings at a place

other than its ordinary place of sitting but within its limits of territorial jurisdiction the Tribunal may do so, for reasons to be recorded in writing and with notice to the parties and to such other persons as the Tribunal may consider necessary. The Tribunal shall intimate the High Court about such sitting, soon after a decision is taken in that behalf.

108. *Record of oral evidence.*— In suits or proceedings before the Tribunal, it shall not be necessary to record the evidence of witness of length, but the Tribunal, as the examination of each witness proceeds shall record or cause to be recorded, a memorandum of the substance of what that witness deposes, and such memorandum shall be signed by the witness and the Tribunal and shall form part of the record.

109. *Evidence of formal character on Affidavit.*— (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exception, be read in evidence in any suit or proceeding before the Tribunal.

(2) The Tribunal may, if it thinks fit, and shall, on the application of any of the parties to the suit or other proceedings summon and examine any such person as to the facts contained in his affidavit.

110. *Judgement or Orders of Tribunal.*— Judgements or orders of the Tribunal shall contain a concise statement of the case, the point for determination, the decision thereon and the reason for such decision.

111. *Costs.*— The costs of and incidental to all proceedings before the Tribunal shall be of the discretion of the Tribunal which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

112. *Impleading of Legal Representative.*— The provisions of section 146 and Order XXII of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, as far as possible, be applicable to the proceedings before the Tribunal:

Provided, that all suits or other proceedings by or against a Mutawalli in granting time for impleading the legal heir of Mutawalli the time

taken for appointment of the successor Mutawalli shall be excluded.

CHAPTER XII

General and Miscellaneous

113. *Person competent to sign communications, deeds, etc.*— (1) The person competent to sign all communications and execute leases of immovable properties on behalf of the Board shall be the Chief Executive Officer or any officer authorised by the Board in this behalf.

(2) All documents evidencing sale or permanent transfers of any of the properties vested in the Board shall be signed by the chairperson and two other members of the Board specially authorised by the Board in this behalf.

(3) Where the Board proposes to enter into any contract for the supply of material or for the execution of any work the Board shall,—

(a) invite tenders therefor by advertising them in at least two newspapers having wide circulation in the State if the estimated cost of such material or work exceeds Rs. 25,000;

(b) invite quotation publishing notice on the notice board of the office of the Board if the estimated cost of such material or work does not exceed Rs. 25,000.

114. *Suit by or against the Board.*— All suits or other legal proceedings by or against the Board shall be made by or filed against the Chief Executive Officer.

115. *Publication of order of delegation.*— An order under section 22 of the Act delegating powers and duties of the Board to the chairperson, or any other member or the Chief Executive Officer or other officer of the Board shall be published in the Official Gazette and a copy of the same affixed on the notice board in the office of the Board.

116. *Recovery of amount due to the Board.*— In recovering any sum recoverable under the Act as an arrear of land revenue, the procedure prescribed in the Goa Land Revenue Code Act, 1968 (Act 9 of 1969) for the time being in force shall be followed.

117. *Channel of correspondence.*— The chairperson shall have full access to all record of the Board.

(2) Save otherwise provided in the Act all official correspondence from the Chief Executive Officer to the Mutawallis or Government or other authorities and vice versa shall be through the chairperson.

(3) All correspondence by the Chief Executive Officer through the chairperson addressing the Government and vice versa shall be delivered by the chairperson without delay.

118. *Publication of orders by the Board.*— Save as otherwise expressly provided in the Act or in these rules, every order passed by the Board or notice issued by the Board shall be published by affixing a copy thereof on the notice board of the office of the Board and some conspicuous place in the wakf office or wakf property to which such notice or order relates.

119. *Annual report.*— (1) Every Mutawalli shall forward to the Chief Executive Officer a report on its administration for each year within thirty days or after the close of the financial year in such form, with such details as the Board may by regulation determine.

(2) The Chief Executive Officer shall consolidate the report of the Mutawallis and prepare an annual report on the working and administration of the Board for the previous year in Form III and forward to the Government with the approval of the Board before the 15th day of May every year.

(3) Government shall as soon as may after the receipt of the report mentioned in sub-rule (2) caused the same to be laid before the Legislative Assembly.

120. *Time for filling petition etc. before the Tribunal.*— Any Mutawalli person interested in a wakf or any other person aggrieved by an order made under the Act or rules made there under may make an application within the time specified in the Act or in the rules or where no such time has been specified within thirty days from the date of order.

Provided that the time taken for obtaining the copy of the order shall be excluded in computing the said person.

FORM OF BUDGET OF WAKF BOARD

FORM I (a)

(See Rule 84)

Budget Estimate of Income and expenditure for financial year

Accounts for	Budget estimate for	Revised estimate for	Income	Expenditure		Financial year			
			Head of Account	Budget estimate for	Budget estimate for	Heads of expenditure	Revised estimate for	Budget estimate for	Accounts for
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(1)	Contribution from Wakfs, under section 72 (1)				(1)	Deficit from previous year			
(2)	Other income —				(2)	(i) Fees or allowances to chairman and members of Board or Committee.			
	(a) Interest on Investments and advances.					(ii) Pay of Secretary			
						(iii) Pay of establishments			
	(b) Fees for supply of documents and other petty items					(iv) Travelling allowances			
						(v) Contingencies			
						(vi) Law Charges after deducting recoveries.			
						(vii) Audit charges.			
						(viii) Interest on Loans.			
Deficit at the end of the year									
Total					Total				

FORM I (b)

(See Rule 84)

Budget Estimate for receipts and payments for the financial year

Accounts for	Budget estimate for	Revised estimate for	Receipt	Budget estimate for	Revised estimate for	Heads of payments	Revised estimate for	Budget estimate for	Accounts for
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
			Cash Balance from previous year			(i) Expenditure (ii) Payment of loans • cash balance at the end of the year **			
			(i) Income (ii) Loans						
			Total			Total			

* From surplus of income over expenditure or from balance of loans etc., when there is no surplus.

** Includes advances of pay, travelling allowances and Lawyers' fees.

(See Rule 84)

Accounts for	Budget estimate for	Revised estimate for	Assets		Liabilities		Budget estimate for	Revised estimate for	Accounts for
			Heads of Assets	Budget estimate for	Revised estimate for	Heads of Liabilities			
Rs.	Rs.	Rs.		Rs.	Rs.		Rs.	Rs.	Rs.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Cash Balance					* Deficit at the end of		Loans		
				Total					

* Includes advances of pay, travelling allowances and Lawyers Fees.

[See rule 95 (1)]

Form for requesting the details of properties by the District Collector

Whereas a requisition has been received under Sub-section (1) of section 52 of the Wakf Act, 1995 from the Goa Wakf Board to obtain and deliver possession of the immovable Wakf property described in the Schedule below transferred without the previous sanction of the Board in contravention of the provision of section 51 of the said Act and the said property in your possession;

And whereas the possession of the said property has to be delivered to the said Board:

Now, therefore in exercise of the powers conferred on me under sub-section (2) of section 52 of the said Act, I hereby direct you to deliver possession of the said property to the Chief Executive Officer of the Goa Wakf Board or any person duly authorised by him in this behalf within thirty days from the date of service of this order. If you are aggrieved by this order, you may within a period of thirty days from the date of service of this order prefer an appeal to the Tribunal within whose jurisdiction the said property is situated. If you fail to comply with this order and do not prefer an appeal within the time specified, the said property shall be taken possession of by me or any person duly authorised by me, using such force, if any, as may be necessary for the purpose, and delivered to the said Board.

SCHEDULE

Serial Number	Name of the district	Name of the taluka	Name of the Village/ /Municipality or Corporation	Survey No.	Extent	Description improve- ment	Boundaries North/ /South/ /East/West	Name & address of person in possession
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Signature

(Seal)

FORM III

(See rule 119)

Form of Annual Report to be submitted by the Board to the Government regarding the working of administration of the State Wakf Board and the Administration of Wakfs in the State for Financial Year

- (1) Name of the Chairperson and members of the Goa Wakf Board.
- (2) Total No. of Wakfs registered before the Goa Wakf Board.
- (3) Total amount of contribution due to the Board during the period.
- (4) Total amount of contribution collected during the period.
- (5) Arrears of contribution pending to be collected.
- (6) List of Wakf properties recovered under section 52 of the Wakf Act, 1995. (give details)
- (7) No. of Wakfs under direct management of the Wakf Board (give details).
- (8) No. of Wakfs to which schemes are prepared by the Board.
- (9) No. of cases in which the Mutawallis are removed by the Board (give details).
- (10) No. of Wakfs in which steps taken for the recovery of contribution.
- (11) Total income of Board for the period.
- (12) Total expenditure of the Board for the period.
- (13) Amount of administration grant given to the Board by the Government for the period.
- (14) Amount of grant given to the Wakf institutions by the Board for the period.
- (15) Amount of grant given to the Board by the Government for the Social Welfare Schemes for the Board.
- (16) Amount spent by way of Social Welfare activities by the Board.
- (17) Balance of any available under the Social Welfare Scheme, reason for non utilising of the amount.
- (18) Number of cases filed before the Wakf Tribunals during the period.
- (19) No. of cases disposed by the Wakf Tribunals during the period.
- (20) No. of cases pending before the Wakf Tribunals.
- (21) Any other details.

By order and in the name of the Governor of Goa.

A. K. Wasnik, Ex officio Jt. Secretary & Director of Social Welfare.

Panaji, 15th November, 2002.